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22 SEP 2006

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In re Application of	:	
NICHOLLS et al.	:	
Application No.: 10/530,502	:	DECISION ON PETITION
PCT No.: PCT/GB03/04288	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 02 October 2003	:	and
Priority Date: 07 October 2002	:	37 CFR 1.47(a)
Attorney Docket No.: 101.057US/PCT	:	
For: A VESSEL HAVING TEMPERATURE	:	
MONITORING APPARATUS	:	

This decision is issued in response to applicant's Renewed Petition to Revive under 37 CFR 1.137(b) and Petition under 37 CFR 1.47(a) filed 21 August 2006 to accept application without the signature of joint-inventor, Paul Nicholls. The required \$200 petition fee has been charged to Deposit Account no. 50-2475.

BACKGROUND

On 02 October 2003, applicant filed international application PCT/GB03/04288, which claimed a priority date of 07 October 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 April 2004. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 07 April 2005.

On 06 April 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee.

On 11 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the declaration is required in accordance with 37 CFR 1.497(a)-(b). The notification set a two-month time limit to respond.

On 31 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 11 August 2005 within the time period set therein.

On 12 July 2006, applicant filed a petition under 37 CFR 1.137(b). In a decision dated 21 July 2006, applicants' petition under 37 CFR 1.137(a) was dismissed without prejudice.

On 21 August 2006, applicant filed the present petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional delay must be accompanied by: (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

In order to comply with the proper response requirement of item (1) above for revival under 37 CFR 1.137(b), applicant submitted the present Petition Under 37 CFR 1.47(a). Under the present circumstances, in order for the response requirement, item (1) above, to be satisfied, the petition to accept the application without the signature of joint-inventor must be grantable.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g)¹, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Applicant has provided items (1) - (4) under 37 CFR 1.47(a).

A review of the papers filed 21 August 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Paul Nicholls) refused to sign, stated the last known address of the non-signing inventor (Paul Nicholls), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied.

Accordingly, the petition to revive under 37 CFR 1.137(b) is granted and it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.137(b) is GRANTED.

¹Regarding item (1), applicant has only provided payment of \$130.00 for the petition fee. Applicant is advised that pursuant to 37 CFR 1.17(g) the petition fee is \$200.00. As authorized, the additional \$70.00 due will be deducted from deposit account no.: 50-2475.

The petition under 37 CFR 1.47(a) is GRANTED.

The application will be given an international filing date of 02 October 2003 under 35 U.S.C. 363, and a date of **21 August 2006** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.



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In re Application of
NICHOLLS et al.
Application No.: 10/530,502
PCT No.: PCT/GB03/04288
Int. Filing Date: 02 October 2003
Priority Date: 07 October 2002
Attorney Docket No.: 101.057US/PCT
For: A VESSEL HAVING TEMPERATURE MONITORING APPARATUS

Dear Paul Nicholls:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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